

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF ALABAMA  
3 NORTHEASTERN DIVISION

4 JOHN PRINCE, \*  
5 Plaintiff, \* 5:20-cv-208-LCB  
6 vs. \* February 24, 2020  
7 HUI HULIAU, et al., \* \* Huntsville, Alabama  
8 Defendant. \* 10:00 a.m.  
\*\*\*\*\*

9 TRANSCRIPT OF MOTION HEARING  
10 BEFORE THE HONORABLE LILES C. BURKE  
11 UNITED STATES DISTRICT JUDGE

12 FOR THE PLAINTIFF:  
13 W. Brad English, Esq.  
14 Benjamin L. McArthur, Esq.  
15 MAYNARD, COOPER & GALE, PC  
16 655 Gallatin Street  
17 Huntsville, Alabama 35801

18 FOR THE DEFENDANT:  
19 C. Gregory Burgess, Esq.  
20 Lauren Audrey Smith, Esq.  
21 LANIER FORD SHAVER & PAYNE, PC  
22 PO Box 2087  
23 Huntsville, Alabama 35804  
(256) 535-1100

24 Brian K. Parker, Esq.  
25 Eric A. Frick, Esq.  
PARKER POE ADAMS & BERNSTEIN LLP  
Three Wells Fargo Center  
Charlotte, NC 28202  
(704) 335-9847

26 COURTROOM DEPUTY: Stephanie P. Tolen

27 **CHRISTINA K. DECKER, RMR, CRR**  
28 Federal Official Court Reporter  
101 Holmes Avenue, NE  
29 Huntsville, AL 35801  
30 256-506-0085/ChristinaDecker.rmr.crr@aol.com

1           COURT REPORTER: Christina K. Decker, RMR, CRR

2       Proceedings recorded by OFFICIAL COURT REPORTER, Qualified  
3       pursuant to 28 U.S.C. 753(a) & Guide to Judiciary Policies and  
3       Procedures Vol. VI, Chapter III, D.2. Transcript produced by  
4       computerized stenotype.

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

*Christina K. Decker, RMR, CRR*

Federal Official Court Reporter

101 Holmes Avenue, NE

Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

I N D E X

2	JOHN PRINCE	5
3	DIRECT EXAMINATION	5
4	BY MR. ENGLISH	
5	CROSS-EXAMINATION	47
6	BY MR. PARKER	
7	REDIRECT EXAMINATION	68
8	BY MR. ENGLISH	
9	RECROSS-EXAMINATION	72
10	BY MR. PARKER	
11	FURTHER REDIRECT EXAMINATION	72
12	BY MR. ENGLISH	
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

*Christina K. Decker, RMR, CRR*  
Federal Official Court Reporter

101 Holmes Avenue, NE

Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

# PROCEEDINGS

(In open court.)

THE COURT: Good morning.

4 All right. Plaintiffs, how long do we need this morning  
5 for your side of the case?

6 MR. ENGLISH: Your Honor, my expectation is we've got  
7 two witnesses. Probably 20, 30 minutes apiece on the long end.

THE COURT: 20 minutes -- 20 or 30 minutes for each side?

10 MR. ENGLISH: Well, I mean, ours is probably going to  
11 take 15 to 30 minutes each witness. And then I'm sure they  
12 will have some cross. That would be my best estimate.

13 THE COURT: All right. Well, that sounds good to me.  
14 Call your first witness.

15 MR. ENGLISH: All right.

16 THE COURT: While he's coming around, let me get all  
17 the attorneys just to identify themselves for the record and  
18 who they represent.

19 MR. ENGLISH: Your Honor, good morning. I'm Brad  
20 English. With me is my partner Ben McArthur. And we represent  
21 the plaintiffs.

22 MS. SMITH: Your Honor, Lauren Smith, representing the  
23 defendants. And this is Brian Parker and Eric Frick from North  
24 Carolina. They're appearing PHV. And then Greg Burgess.

25 MR. BURGESS: Good morning, Judge.

1 THE COURT: Good morning.

2 JOHN PRINCE,

3 having been first duly sworn by the courtroom deputy clerk, was  
4 examined and testified as follows:

5 MR. ENGLISH: Your Honor, in the interest of trying to  
6 be efficient, we made books of the exhibits prelabeled.

7 THE COURT: Super.

8 MR. ENGLISH: Is it all right if I leave one at the  
9 witness table?

10 THE COURT: Absolutely.

11 MR. ENGLISH: And I have one for Your Honor.

12 THE COURT: Super. That would be great.

13 THE COURTROOM DEPUTY CLERK: Could you state your name  
14 for the record, please?

15 THE WITNESS: John Prince.

16 THE COURTROOM DEPUTY CLERK: Thank you.

17 DIRECT EXAMINATION

18 || BY MR. ENGLISH:

19 Q Mr. Prince, good morning.

20 A Good morning.

21 Q If you would, just introduce yourself a little briefly to  
22 the Court and to everyone here.

23 A My name is John Prince. I'm the founder of Kaya  
24 Associates, and the former president and CEO.

25 Q When did you found Kaya?

***Christina K. Decker, RMR, CRR***  
Federal Official Court Reporter  
101 Holmes Avenue, NE  
Huntsville, Alabama 35801  
6-0085/ChristinaDecker.rmr.crr@

1 A It was founded in 2003. We began early operations in  
2 2004.

3 Q Who were the shareholders?

4 A Myself and another gentleman named Robert Dunn.

5 Q Did you come up with the name Kaya?

6 A I did.

7 Q Can you tell us where you came up with that name?

8 A Kaya is named after the province that my grandfather grew  
9 up in, in Korea. I was very close to my grandfather.

10 Q Who were the -- I may have asked you this. Forgive me if  
11 I did. Who were the shareholders of Kaya?

12 A I owned 90 percent of Kaya. Robert Dunn owned 10 percent  
13 at the time when it was founded.

14 Q Was there ever a time you became the sole shareholder of  
15 Kaya?

16 A Yes. About 2014 I became the sole shareholder.

17 Q Tell the Court, if you would, just generally what type of  
18 business Kaya is in, or was in at least until -- while you were  
19 involved.

20 A Sure. Kaya was originally an environmental firm. We did  
21 environmental assessments, environmental impact statements.

22 Our primary customer was the Space and Missile Defense  
23 Command at Redstone. And as their mission grew -- they being  
24 our single largest customer at that time. As their mission  
25 grew, ours grew, as well. And we sort of grew as a need to

*Christina K. Decker, RMR, CRR*

Federal Official Court Reporter

101 Holmes Avenue, NE

Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 fill a need for our customer.

2 So starting with environmental, we then added facilities  
3 engineering. We added air traffic control. And we added base  
4 operations. Basically an installation management function.

5 So at its peak, we had five disciplines. Information  
6 technology was another.

7 Q Just looking through some of the documents, I have seen a  
8 term 8(a).

9 A Yes.

10 Q Does that mean anything to you?

11 A Yes.

12 Q Can you tell us what that is?

13 A 8(a) is a section of the Small Business Act that allows  
14 preferred contracting privileges to a certain group of  
15 socioeconomic companies, disadvantaged companies.

16 Q Was Kaya a participant in the SBA(8) program?

17 A Yes, it was.

18 Q For how long?

19 A Nine years. Nine years is the duration of the program.

20 Q What happened when Kaya graduated from the 8(a) program?

21 A Well, it's -- the 8(a) program offers fantastic benefits  
22 for disadvantaged companies to start business. It provides you  
23 with some preferred contracting benefits.

24 There's also a downside with the program. The downside is  
25 if your project, your contract, your program, whatever it might

1 be, once it's brought into the 8(a) program, it's nearly  
2 impossible to get it out. In other words, if you had the -- if  
3 you had the program as an 8(a), once you graduate from the 8(a)  
4 program, it's nearly impossible to bring the program with you.

5 So ultimately 8(a) companies are faced with either finding  
6 partners that are 8(a) companies so you can at least have a  
7 portion of that contract or program moving forward. Or in a  
8 lot of cases, you tend -- if you're fairly diverse, like we  
9 were with five disciplines, what you're really forced to do is  
10 make some hard choices.

11 A lot of cases you end up winnowing down your areas of  
12 business to one or maybe two disciplines, and essentially  
13 jettison the rest -- the smaller, the less performing  
14 organizations -- because it's the only way you can survive.

15 Q Let me ask you a couple of questions about some of the  
16 terms you used.

17 You said SBA program. And then you also referred to  
18 "bring the program with you." At least as regards to your  
19 comment about "bring the program with you," did you mean  
20 contracts work? What did that mean?

21 A It's exactly right. It was contracts, the work. What I  
22 referred to as the program is your company -- your customer's  
23 mission.

24 Q So it was difficult to bring the contracts and work you  
25 had under the 8(a) program out of the 8(a) program, or once

1 Kaya graduated from the 8(a) program?

2 A Yes. It's nearly impossible.

3 So we were faced with either terminating certain divisions  
4 in the company and focusing on one or two, or finding some  
5 other method. And what we chose to do was -- these were  
6 longstanding employees. They were -- most of them started with  
7 me from the very beginning of the company.

8 So what we chose to do was do both of those things. I  
9 took the environmental, the facilities engineering, and the IT  
10 work, and spun it off to a small company, to a separate  
11 company. Because, in essence, those disciplines were  
12 considered large because of the growth of Kaya's other  
13 disciplines.

14 And then the other thing we did is we focused Kaya on  
15 installation management and air traffic control work.

16 Q The other company you mentioned that you spun these  
17 divisions off to, what was the name of it?

18 A That's KFS.

19 Q Okay. Was it an 8(a)?

20 A 8(a), correct.

21 Q Did that provide any particular benefit to Kaya?

22 A Absolutely. Again, the projects, the contracts that were  
23 in the 8(a) program were going to stay in the 8(a) program.

24 So by taking those disciplines and spinning them off into  
25 a separate -- into another 8(a) company with an 8(a) partner,

1 they basically breathed new life into those organizations.

2 Q How --

3 THE COURT: I've got a quick question. Why is it so  
4 hard to bring a company out of 8(a)?

5 THE WITNESS: Well, the contracts that you were  
6 working on as an 8(a), when the 8(a) program ends -- and those  
7 contracts are typically five years in duration. When it comes  
8 up for rebid and you're not an 8(a), you can't bid on that  
9 anymore. So you're no longer eligible for that contract unless  
10 you team up with a prime partner that is an 8(a) and you serve  
11 as a subcontractor.

12 THE COURT: Go ahead. Judge Wilkes always said,  
13 Judge, if you're going to try my case for me, don't lose it.  
14 So I won't do too much of that. Go ahead.

15 BY MR. ENGLISH:

16 Q Mr. Prince, just to kind of pick up on the question that  
17 the Court asked, tell us how, if at all, Kaya planned to work  
18 with KFS to deal with the 8(a) program that you have described.

19 A Well, it was hoped that there would be many teaming  
20 opportunities going forward between the two firms. And the  
21 disciplines were separate, but what we were trying to do was  
22 play within the rules of the SBA 8(a) program and still  
23 maintain the employees that we had and maintain the business  
24 that we were in.

25 Q So was it the plan that KFS could be the prime contractor

1 on 8(a) contracts --

2 A Yes.

3 Q -- and Kaya could be a subcontractor?

4 A Correct. Correct.

5 Q Did you own any interest in KFS?

6 A I have a minority interest in KFS, yes.

7 Q At some point in time, did you sell your interest in Kaya?

8 A I did.

9 Q All right. Take a look, if you would, at Tab 1,  
10 Exhibit 1, in the book that's in front of you.

11 A Yes.

12 Q Can you identify the documents that are at Tab 1 for us,  
13 please?

14 A It's a purchase agreement between the Kaya and Briefne  
15 Group.

16 Q And as you flip through this, there's a number of  
17 documents or -- do you see your signature on these documents  
18 that --

19 A Yes, I do.

20 Q What's the date of these documents? It's on the first  
21 page, I believe.

22 A April 29th, 2016.

23 Q And are these documents the documents that effectuated  
24 your sale -- the sale of your stock in Kaya?

25 A Correct. Yes, sir.

*Christina K. Decker, RMR, CRR*

Federal Official Court Reporter

101 Holmes Avenue, NE

Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1                   MR. ENGLISH: Your Honor, we would offer Exhibit 1.

2                   THE COURT: Any objection? Be admitted.

3 BY MR. ENGLISH:

4 Q       Tell the Court, if you would, why it came to be that you  
5 sold your stock in Kaya.

6 A       Well, as I mentioned earlier, you know, the strategy was a  
7 good one, but it failed in its execution.

8                   Kaya, its most significant contract that represented 40  
9 percent of its -- 35 to 45 percent of its revenues was the base  
10 operations contract in Fort Greely, Alaska.

11          And per our plan, we teamed up with an 8(a) partner with  
12 an Alaska Native Corporation, and pursued that recompete of our  
13 existing contract. Unfortunately, it failed.

14          Once that failed, we were -- you know, obviously, taking a  
15 35 to 40 percent hit is rough. But during that period, the  
16 other thing that occurred, if I'm remembering the timeline  
17 correctly, what we created with KFS and Kaya was absolutely  
18 within the rules of the 8(a) program.

19          When we created -- when we employed this strategy, we  
20 actually talked with SBA and the headquarters of the SBA in  
21 Washington, D.C., and we cleared everything with them before we  
22 proceeded. But the problem we were running into is that there  
23 was an appearance -- to the local SBA offices, there was an  
24 appearance of conflict of some sort because the rules state  
25 that you can't have a significant ownership in two 8(a)

1 companies in the same business line. And -- but we had, like I  
2 said, we had cleared this through headquarters, and we had  
3 crafted our strategy based on the advice we got from the  
4 headquarters. But the local offices kept stumbling over this.

5 And it was a difficult thing. It became a real obstacle.  
6 And it actually cost us our third largest contract at NASA just  
7 because of the delays in processing because of this  
8 questionable. From the local SBA office's perspective, there  
9 were a lot of questions that they had to ask. So...

10 Q What goal or effect were you hoping the sale of your stock  
11 would have -- stock in Kaya have on the competition that you  
12 were engaged in with KFS?

13 A Well, that's -- again, I wanted to avoid any appearance of  
14 conflict. And by taking myself out of the equation, it cleared  
15 the decks for them to team up on many opportunities.

16 Q So after the effectuation of the transaction reflected by  
17 the documents in Exhibit 1, were you any longer a shareholder  
18 of Kaya?

19 A No, I was not.

20 Q But you continued to own KFS?

21 A Correct.

22 Q You mentioned a couple of terms that are going to be  
23 important in a second. I just want to get you to clear them  
24 up.

25 A Sure.

1 Q You said Alaska Native Corporation?

2 A Yes.

3 Q Why is that significant, if at all?

4 A Alaska Native Corporation and their counterparts in the  
5 Native Hawaiian Organizations, they are afforded some special  
6 privileges within the 8(a) program.

7 One of the privileges is that, whereas Kaya and most --  
8 and every other standard 8(a) company is limited to the  
9 nine-year program. The exceptions made for ANCs -- Alaska  
10 Native Corporations and Native Hawaiian Organizations -- is  
11 that they are allowed to establish multiple 8(a) companies  
12 within their umbrella, within their corporate structure.

13 So when one 8(a) expires after the nine-year period,  
14 there's another 8(a) that could be stood up in its place right  
15 behind it. So, therefore, they gain an advantage that we don't  
16 have. We're limited to the nine-year cycle.

17 Q Was KFS a Native Hawaiian Corporation or Alaska Native  
18 Corporation?

19 A It's a Native Hawaiian Corporation.

20 Q So does it have that perpetual 8(a) status, as you  
21 understand it?

22 A Yes, it does. Yes.

23 Q The purchaser in the -- let me ask you this: After you  
24 sold your stock in Kaya, who became the shareholder?

25 A Briefne.

1 Q Can you spell that for us?

2 A B-R-I-E-F-N-E, I believe is the correct spelling.

3 Q And tell us what Briefne was.

4 A Briefne was a company owned by a friend and an associate  
5 that I -- that I sold Kaya to.

6 Q What was his name?

7 A Dan McCauley (phonetic) .

8 Q If you would, as part of Exhibit 1, you will see at the  
9 bottom there's little Bates label numbers. Turn several pages,  
10 if you would, to the pages that are Bates labeled 16298 through  
11 16303. It's at Tab 5, or it's Exhibit 5 to the purchase  
12 agreement.

13 A Yes.

14 Q Can you tell us what that document is?

15 A That's a promissory note from Kaya Associates to me in the  
16 amount of \$6,389,201.25.

17 Q Was that the purchase price of your stock in Kaya?

18 A Yes.

19 Q All right. Now, at some point in time, was the ownership  
20 of Kaya sold from Briefne to another company?

21 A Yes.

22 Q All right. Were you involved in that transaction?

23 A I was involved as a note holder, yes.

24 Q As a note holder, did you participate in the negotiation  
25 of the terms of the transaction?

*Christina K. Decker, RMR, CRR*

Federal Official Court Reporter

101 Holmes Avenue, NE

Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A Yes.

2 Q If you know, what motivated that subsequent change of  
3 ownership?

4 A Well, further deterioration in Kaya's position. It was  
5 evident that, you know, things were not going to change moving  
6 forward, were not going to improve moving forward at that time.  
7 We continued to lose contracts, revenues continued to drop. So  
8 it was time to find another alternative for Kaya.

9 Q If you would, lean in a little bit, or pull that closer to  
10 you, because with the air on, I'm having a hard time hearing  
11 you.

12 Who was the subsequent purchaser of Kaya's stock?

13 A Hui Huliau.

14 Q Will you spell that, please?

15 A H-U-I, H-U-L-I-A-U, I believe is right.

16 Q And how do you -- say that again one more time.

17 A Hui Huliau.

18 Q And do you know why Hui Huliau was chosen as the purchaser  
19 or potential purchaser of the Kaya stock?

20 A Well, they had a lot of the characteristics we were  
21 looking for. It is a Native Hawaiian Organization. It was  
22 actually a firm that was recommended to us by our CPA,  
23 longstanding CPA. And he thought that an introduction would  
24 be -- would be beneficial. And as it turned out, you know,  
25 there was interest on both sides.

1 Q And as a Hawaiian Native or a Native Hawaiian Corporation,  
2 did Hui Huliau bring with it that perpetual 8(a) status that  
3 you have described?

4 A Yes.

5 Q And did you review that as some potential benefit to Kaya?

6 A Absolutely.

7 Q How so?

8 A Well, it would have given us a shot at getting back into  
9 those projects, those contracts that were in the 8(a) program  
10 that our customers actually wanted us to have, wanted us to  
11 procure. So it would have given us the opportunity to get back  
12 in with the customers that we had been working with.

13 Q If you would, take a look at Tab 2, what I have marked as  
14 Exhibit 2 in the binder you have in front of you.

15 A Yes.

16 Q There's quite a bit of material, but if you would, take a  
17 look and tell me what that is, if you can, please, sir.

18 A It's a transaction agreement between Briefne and Hui  
19 Huliau to purchase Kaya Associates.

20 Q Okay. If you would --

21 MR. ENGLISH: Well, first of all, Your Honor, we would  
22 offer Exhibit 2.

23 THE COURT: No objection? Be admitted.

24 BY MR. ENGLISH:

25 Q Take a look -- let's identify some documents so we can

1 talk about them. Take a look at Tab 3 if you would, please,  
2 sir.

3 A Yes, sir.

4 Q Will you tell us what that is?

5 A This is the loan and security agreement for the purchase  
6 of Kaya by Hui Huliau.

7 Q Okay. And who are the parties to that agreement?

8 A Kaya and John Prince.

9 MR. ENGLISH: Your Honor, we would offer Exhibit 3.

10 MR. PARKER: No objection.

11 THE COURT: Be admitted.

12 BY MR. ENGLISH:

13 Q Take a look at Exhibit 4, which is at Tab 4 of the book  
14 you have in front of you.

15 A Yes, sir.

16 Q If you would, tell me what that is.

17 A It's a promissory note for the Kaya transaction.

18 Q And who is the borrower?

19 A Kaya Associates is the borrower.

20 Q Who is the lender?

21 A John Prince, myself.

22 Q What is the face amount of that note?

23 A \$4,481,701.25.

24 MR. ENGLISH: Your Honor, we would offer Exhibit 4.

25 MR. PARKER: No objection.

1 THE COURT: Be admitted.

2 BY MR. ENGLISH:

3 Q Take a look, if you would, at Exhibit 5, that's at Tab 5  
4 of the book I have put in front of you, if you would, sir, and  
5 tell us what that is.

6 A That is the guaranty provided by Hui Huliau for the  
7 promissory note and for the purchase of Kaya.

8 MR. ENGLISH: Your Honor, we would offer Exhibit 5.

9 THE COURT: Be admitted.

10 BY MR. ENGLISH:

11 Q Take a look at Tab 6, if you would, please, sir, and tell  
12 me that is.

13 A This is a pledge agreement for the same transaction.

14 Q Okay.

15 MR. ENGLISH: Your Honor, we offer Exhibit 6.

16 THE COURT: Be admitted.

17 MR. ENGLISH:

18 Q All right. Looking at the --

19 THE COURT: I assume defendants have gone through  
20 this. Is it your intention to not object to any of these  
21 exhibits as they're offered?

22 MR. PARKER: Well, to the extent we have seen them  
23 before, we just -- as he goes through them. I want --

24 THE COURT: Okay. All right.

25 BY MR. ENGLISH:

1 Q Mr. Prince, if you would, let's focus on Tab 3, the loan  
2 agreement, or Exhibit 3.

3 A Yes.

4 Q The document speaks for itself. And I don't want to waste  
5 the Court's time having you read anything. But just I want to  
6 touch on some points so that at least we've talked about how  
7 you understand things are supposed to work.

8 And so, generally, if you would, focusing on Section 1.01  
9 of Exhibit 3, tell us your understanding of how the loan  
10 agreement works.

11 A The way -- the loan agreement was structured with as two  
12 tranches -- the initial tranche, Tranche 1 or Tranche A, I  
13 should say, is \$3,287,500, and the Tranche B loan, the value is  
14 1,314,201.

15 The purpose of the two loans -- the Tranche A loan was for  
16 the actual purchase of Kaya. The Tranche B was an incentive --  
17 incentive portion of the transaction that provides me with  
18 incentive to help create additional business base for Kaya.

19 Q And I've never been accused to being fast or great at  
20 math, but if I add these numbers up, do I get pretty close or  
21 maybe even exactly the amount of the promissory note?

22 A Yes. Yes. That's correct.

23 Q Now, 4.5 million roughly is less than the 6.3 we saw in  
24 the original promissory note; is that right?

25 A That's correct.

1 Q Tell me, if you know, what happened to the -- or why there  
2 is a difference between these two promissory notes?

3 A I ended up with \$2,000,000 as part of the sale that was  
4 taken off of -- taken from the -- it wasn't included in the  
5 promissory note. It was payment to me.

6 Q Take a look, if you would, back at Exhibit 3, Section  
7 1.03.2, which is on page 2.

8 A Yes.

9 Q To your knowledge, Mr. Prince, have you ever received  
10 what's been defined here as indemnification claim from Kaya?

11 A Not that I am aware of.

12 Q Or on behalf of Kaya?

13 A Not that I'm aware of.

14 Q Tell us generally -- and, again, the document speaks for  
15 itself. I don't want you to read it. But, just generally,  
16 what's your understanding of the payment structure that's  
17 spelled out in this loan agreement?

18 A There was to be quarterly payments of interest on the  
19 outstanding balance. And then there was also a quarterly --  
20 quarterly payment against the principal that represented  
21 30 percent of free cash flow.

22 Q I see down here at the bottom of page -- or, excuse me --  
23 of Section 1.03.2 a definition for quarterly sweep amount?

24 A Yes.

25 Q Is that the component of principal that was to be paid on

1 a quarterly basis?

2 A Yes, it is.

3 Q It looks like it's greater of zero or an amount calculated  
4 by the borrower equal to 30 percent of the borrower's free cash  
5 flow.

6 A That's correct.

7 Q Now, did you receive payments under the note that we have  
8 seen that's Exhibit 4, I believe?

9 A I have received interest payments. I wasn't aware of any  
10 principal payments. But I think there has been one payment  
11 made out of the various -- what I get is a -- typically, a  
12 quarterly interest payment that's direct deposited. I don't --  
13 so it's -- I can't really tell very easily if there's any  
14 principal paid at all.

15 Q Let me ask you a couple of questions there.

16 A Yes.

17 Q Do you get any memorandum or detail breaking down that  
18 payment when you receive it?

19 A No, I don't.

20 Q All right. What is your understanding of the amount of  
21 the interest payments that have been made under the loan  
22 agreement and the note?

23 A It's approximately 49,000 and change. I don't know the  
24 exact amount, but roughly 49,000.

25 Q And was there one time you said you got more than that?

1 A Yes. There was one payment of 57,000 that was deposited  
2 into my account.

3 Q Do you know what that roughly 7 or 8,000-dollar difference  
4 was?

5 A You know, I didn't even notice it until I went and looked  
6 back the other day. It was just another transaction of 57,000.  
7 They really didn't differentiate between principal and  
8 interest.

9 Q So at least there's \$7,000, \$8,000, whatever the number is  
10 there, that might be principal?

11 A Yes, that's true.

12 Q Other than that one payment of 57, \$58,000, have you ever  
13 received a payment greater than the interest payment amount of  
14 49,000 and change?

15 A I don't think so. They have all been right around the  
16 49,000 mark.

17 Q The loan agreement you have identified first, Tranche A  
18 and Tranche B loan?

19 A Yes.

20 Q Is the Tranche B loan due yet?

21 A It was a three-year term, but from my perspective, yes,  
22 it's due now.

23 Q Why is that?

24 A There was a late -- the July payment of interest was not  
25 made, and we notified them of that fact.

1 Q Okay. Let's get to that in just one second.

2 Flip -- just to again highlight some of these for Judge  
3 Burke. We're not going to read them.

4 A Yes.

5 Q Flip to page 4 in the loan agreement, which is Exhibit 3,  
6 I believe. And Section 1.06.2.

7 A Yes.

8 Q Just generally, what's your understanding of that,  
9 particularly the first part of that provision?

10 A The payments are to be made on the specified due date  
11 without notice or demand by the lender.

12 Q Section 2.01 on page 5, if you would, tell us generally  
13 what you understand that to be.

14 A This represents the --

15 THE COURT: Hold on one second. Do we have an  
16 objection?

17 MR. PARKER: It's kind of -- I think I've missed  
18 something. When he said that was due and payable, I think he  
19 might have been talking about Tranche A, not B. I'm not sure.  
20 He said Tranche B, but I --

21 MR. ENGLISH: Oh. It should be Tranche A.

22 MR. PARKER: Okay. That's what I --

23 MR. ENGLISH: Yes. You're right.

24 BY MR. ENGLISH:

25 Q All right. 2.01 on section -- or page 5.

1 A Yes.

2 Q Can you tell us generally what your understanding of that  
3 section is?

4 A That section describes a security for the loan, for the  
5 Tranche A loan.

6 Q All right. And how about turning the page to page 6,  
7 Section 2.03?

8 A Yes.

9 Q Tell us what you understand that section to be.

10 A My understanding of setoff is that any payments that I  
11 receive of any kind is something that I can apply to the  
12 contract, the sales agreement.

13 Q You mentioned a late payment in the summer of 2019.

14 A Yes.

15 Q Did that late payment subsequently get made to you?

16 A It did. It was made just prior to our face-to-face  
17 meeting in August.

18 Q We'll talk about that in a minute.

19 Let's see. Did you, as part of this loan agreement, did  
20 you negotiate any terms that you believed would govern the  
21 operation of Kaya?

22 A Yes. To me it was pretty logical, pretty standard. What  
23 I expected was that Kaya's revenues would be used towards the  
24 operation of Kaya and for repayment of the loan.

25 Q Take a look --

1 A But we -- go ahead.

2 Q Take a look beginning on page 10 and continuing, I  
3 believe, through page 12, and tell me if those provisions under  
4 Section 4 covenants are the ones you're referring to.

5 A Yes. Yes.

6 Q All right. And let me call your attention particularly to  
7 the bottom of page 12, Section 4.18?

8 A Yes.

9 Q Would you read that sentence, please?

10 A Loans to third parties. Borrowers shall not extend or  
11 allow to remain outstanding any loans or advances to borrower  
12 and any third party without the prior written consent of the  
13 lender.

14 Q Take a look at the next page, page 13, under Section 6,  
15 Events of Default. And under Section 6(a) there at the top,  
16 tell us generally without reading it what you understand that  
17 to be. What event of default that culls out.

18 A It's -- what A states is that any failure to pay when due  
19 and payable any portion of the principal or interest on the  
20 Tranche A loan, then that constitutes a breach of the  
21 agreement.

22 Q Take a look, if you would, at Tab 7, which I have marked  
23 as Exhibit 7 to this hearing.

24 A Yes.

25 Q Can you tell us what that document is, please, sir?

1 A That is a letter that I requested Maynard Cooper write to  
2 Hui Huliau when the payment was missed in July.

3 Q Are you copied on this letter?

4 A Yes, I am.

5 MR. ENGLISH: Your Honor, we offer Exhibit 7.

6 MR. PARKER: No objection.

7 THE COURT: Be admitted.

8 BY MR. ENGLISH:

9 Q What is the date of this letter, Mr. Prince?

10 A August 15th, 2019.

11 Q When was the payment that you mentioned that was missed  
12 due?

13 A July -- it would have been within the first ten days of  
14 July.

15 Q So this letter is after the payment had been missed?

16 A Yes.

17 Q When did the payment subsequently get deposited into your  
18 bank account?

19 A It was a few days before our -- my scheduled meeting with  
20 Mr. Russell in August.

21 Q And not holding you to any particular date, but looking at  
22 the date on the letter that is Exhibit 7, August 15th, can you  
23 give the Court a judgment as to when that meeting took place  
24 and when that payment was made?

25 A I believe the meeting took place on about the 24th of

*Christina K. Decker, RMR, CRR*

Federal Official Court Reporter

101 Holmes Avenue, NE

Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 August. I should have checked the exact date. But somewhere  
2 around the 24th of August. The payment was several days prior.  
3 So somewhere between the letter from Maynard Cooper and my  
4 meeting with Mr. Russell.

5 Q Was there any forewarning, or did anyone tell you they  
6 were about to deposit money in your bank account?

7 A No, there wasn't.

8 Q Have you returned that money to Hui Huliau or Kaya?

9 A No, I have not.

10 Q And why not?

11 A Based on the setoff clause in the contract.

12 Q All right. Tell us, if you can, without talking about  
13 specific things that were mentioned -- well, first of all, who  
14 did you meet with from Hui Huliau after the letter that is  
15 Exhibit 7 that was sent?

16 A Mr. Howard Russell.

17 Q Okay. And who do you understand Mr. Russell to be?

18 A He is the chief financial officer of Hui Huliau.

19 Q Okay. And just generally tell us the things that you  
20 discussed in that meeting.

21 A Well, we discussed the fact that he didn't -- Hui Huliau  
22 didn't seem to be complying with the agreement. The payments  
23 were late.

24 When I -- and I had -- what we talked about was the  
25 viability -- at that time, there was only one year left of a

1 three-year repayment for this Kaya loan. And not only at that  
2 point in time, there was no -- other than the \$7,000, which I  
3 didn't even realize, there was no payments made to principal,  
4 and an interest payment had been late.

5 So the conversation with Mr. Russell had to do with,  
6 number one, how are you going to pay me within the next year?  
7 I mean, nothing appears to be moving in the right direction.

8 So what we discussed was the viability of them upholding  
9 their end of this deal. And then we also talked about -- and  
10 when I expressed to him that I have serious doubts and serious  
11 concerns that you are going to be able to make this note, that  
12 -- and that you have already -- you have already violated the  
13 terms of the agreement, and what I would like to do is have a  
14 constructive conversation of how to bring Kaya back, bring --  
15 return Kaya to me so -- before any further damage was done.

16 Q Did you, during the course of the discussions you have had  
17 with Mr. Russell, or at any time, agree to waive the default  
18 that resulted from the late payment last summer?

19 A Oh, absolutely not. No.

20 Q Did you at any time, during the discussions you described  
21 with Mr. Russell or otherwise, agree to allow Hui Huliau or  
22 Kaya to cure that default?

23 A No. Huh-uh.

24 Q Let's flip back to Exhibit 3, the loan agreement. On page  
25 13 where we left off. Let me know when you're there, sir.

1 A Page 13, did you say?

2 Q Yes, sir. Of Exhibit 3.

3 A Yes, sir.

4 Q Let's look at on page 13, Section 6, Events of Default, we  
5 talked about Section A. Talk about your understanding, if you  
6 would, without reading it, of Subsection C.

7 A It describes the -- an event of default. Let's see.

8 Q If you want to take a second to look at it.

9 A Yes. Thank you.

10 Q Let me ask you a better question, Mr. Prince.

11 A Yes.

12 Q Do you understand Section C to be tied to the covenants  
13 that we saw earlier in Section 4 of this agreement?

14 A Yes. Yes. And this describes that if -- failure to  
15 uphold those covenants would constitute a default.

16 Q Let's take a look at Exhibit 9 in the book you have in  
17 front of you.

18 A Yes.

19 Q Can you tell us what we see at Exhibit 9?

20 A These are the CPA prepared year-end financials for Kaya  
21 for years 2017 and 2018.

22 Q Well, if you take a look, Mr. Prince, the e-mail that --  
23 well, does it appear the first page is an e-mail from Howard  
24 Russell to you dated November 14th, 2019?

25 A Yes, it is.

1 Q And did you receive that e-mail?

2 A I did.

3 Q And did it carry with it the attachments that are listed  
4 there under the attachment line?

5 A Yes.

6 Q And I don't know that I put all of these attachments in  
7 this exhibit, but did you receive them?

8 A Yes, I did.

9 Q And tell us, if you would, what the rest of Exhibit 6 --  
10 excuse me -- Exhibit 9 is.

11 A They're the actual CPA prepared financial reports for 2017  
12 and '18.

13 Q They were provided to you by Mr. Russell?

14 A Correct.

15 MR. ENGLISH: Your Honor, we offer Exhibit 9.

16 MR. PARKER: No objection.

17 THE COURT: Be admitted.

18 BY MR. ENGLISH:

19 Q Turn to page 14 of the financial statements that are part  
20 of Exhibit 9, if you would, please, sir.

21 A In '17 or '18?

22 Q In '18. I'm sorry.

23 Let me ask you a clear-up question, because I didn't put  
24 the '17 ones in my book. But are the '17 financials in your  
25 exhibits?

1 A Yes.

2 Q Okay. So both the '17 and '18 financial statements that  
3 were sent to you by Mr. Russell are a part of Exhibit 9?

4 A Yes.

5 Q Look at the ones from 2018, if you would, please, sir.

6 Page 14.

7 A Yes. I'm there.

8 Q Do you see Section 8 titled, Related Party Transactions?

9 A Yes, I do.

10 Q And then you see the second paragraph that says the  
11 company lends money for various support services, such as  
12 insurance, to its parent organization Hui Huliau, Inc.?

13 A Yes.

14 Q And it goes on to describe other intercompany loans; is  
15 that right?

16 A Yes, it does.

17 Q Did you know anything about intercompany loans between  
18 Kaya and other parts of the Hui organization?

19 A I was never consulted by any of these -- for any of these  
20 transactions.

21 Q Prior to seeing these financial statements, did you know  
22 anything about it?

23 A No, I did not.

24 Q So is it fair to assume that you didn't approve or agree  
25 to allow those loans to be made?

1 A I did not approve any of these transactions.

2 Q All right. If you would, Mr. Prince, let's just talk  
3 about a couple of other documents quickly as I wrap up.

4 If you would, flip to Exhibit 5, which I believe you  
5 identified earlier --

6 A Mr. English, can I step back a minute?

7 You asked a question earlier is this the first time that I  
8 have seen -- there was actually a preliminary -- because it  
9 just dawned on me.

10 After my August meeting with Mr. Russell, he provided me  
11 with some initial -- some preliminary financials, not CPA  
12 prepared internal financials, and it caused me to question what  
13 was going on. And there was a line item in there that talked  
14 about -- there was a line item about -- I'm trying to remember  
15 what the terminology was, but essentially was third-party  
16 loans.

17 So that caused me to start asking questions and demanding  
18 these CPA prepared financials.

19 Q And when you saw that entry in the financial statements  
20 that I guess Mr. Russell had given you prior to November, did  
21 you ask him what the loans were about?

22 A Yes, I did.

23 Q What did he tell you?

24 A What he told me, it was more -- it was an accounting  
25 exercise. And that, you know, it was accumulated at Kaya, but

1 it didn't represent an obligation for Kaya.

2 Q Okay.

3 A And then that subsequently that would all be cleared up.

4 Q Okay. To your knowledge, has any of that been cleared up?

5 A I don't believe it has.

6 Q We will ask somebody else maybe a little bit about that.

7 Q Flip back to the guaranty, which I believe is Exhibit 5.

8 A Yes.

9 Q Let's see. Who is this guaranty made by?

10 A Hui Huliau.

11 Q And let's look at the pledge agreement that I believe is  
12 Exhibit 6.

13 A Yes.

14 Q And what is your understanding of what this document does?

15 A Well, I think you just said it. It's a pledge agreement  
16 between Hui Huliau and John Prince, myself.

17 Q And what is pledged, if you know?

18 A The company stock.

19 Q Do you see an assignment separate from certificate as part  
20 of that exhibit?

21 A Yes, I do.

22 Q All right. Have you ever heard of a company called 4P?

23 A I have heard of the company, yes.

24 Q What is your understanding of what 4P is?

25 A 4P, from what was explained to me, represents -- it's a

*Christina K. Decker, RMR, CRR*

Federal Official Court Reporter

101 Holmes Avenue, NE

Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 management company that's outside of the Hui Huliau  
2 organization. And it's a management company -- the way it was  
3 described to me is it's the compensation -- it's a compensation  
4 for the senior executives of Hui Huliau.

5 Q Okay. Did you know anything about 4P when you entered  
6 into the transaction with Hui Huliau?

7 A No, I did not.

8 Q When did you first find out about 4P?

9 A I believe -- I believe it might have been part of the --  
10 Mr. English, I don't recall exactly how I heard about it. I  
11 was aware of it before my meeting with Mr. Russell, because it  
12 was a topic of conversation.

13 Q And what, if anything, do you understand 4P to be doing on  
14 behalf of Kaya, if anything?

15 A I'm not aware of it doing anything for Kaya.

16 Q Are you aware of any payments that are made to 4P?

17 A Yes.

18 Q What is your understanding about that?

19 A My understanding, one of the discussion points in the  
20 August meeting was the management fee. It was minimizing all  
21 of the charges that are outside of the normal course of  
22 business. And eliminating those during this period when I'm  
23 trying to get Kaya back. It was -- at the time, it was \$20,000  
24 a month.

25 Q Okay. Every month?

1 A Every month, yes.

2 Q What effect, if any, do you believe that had on your  
3 ability to get repaid?

4 A Well, it factors directly into the 30 percent of free cash  
5 flow that was due to me each quarter.

6 Q How does it factor indirectly?

7 A Pardon me?

8 Q You say it factors indirectly. What does it do to the  
9 free cash flow, if you know?

10 A Actually, I said directly. It directly affects the free  
11 cash flow because you are taking profits out of the company  
12 each month to the tune of \$20,000. Therefore, it eliminates  
13 any profit potential for me.

14 Q Do you have any understanding as to how long these \$20,000  
15 a month payments have been made to 4P?

16 A I don't -- I don't know specifically. I just know it's  
17 been ongoing since my meeting with Mr. Russell.

18 Q Did Kaya have a line of credit when you entered into the  
19 transaction with Hui Huliau?

20 A Yes.

21 Q Do you know what that balance was?

22 A The line of credit was for \$2,000,000 roughly, and the  
23 balance was zero.

24 Q Have you had any conversations with Regions recently?

25 A I have.

1 Q And does Regions have any relationship to that line of  
2 credit that Kaya has?

3 A Yes. They own that -- they continued to service that line  
4 of credit as the banker.

5 Q Do you have any understanding as to what the status of  
6 that Kaya line of credit with Regions is today?

7 A My understanding is it's almost maxed out to the tune of  
8 about \$1.7 million.

9 Q In connection with your conversations, communications with  
10 Regions, did you tell them about these proceedings?

11 A Yes. I notified them that I was looking to -- I was  
12 seeking to get Kaya back.

13 Q And do you have any understanding from those  
14 communications with Regions as to Kaya's current status with  
15 Regions?

16 A Yes. They cautioned me that -- that I could be -- I could  
17 be taking on a mess. They were --

18 MR. PARKER: Objection to characterization.

19 THE COURT: Hold on one second.

20 THE WITNESS: Yes, sir.

21 THE COURT: Objection to what, now?

22 MR. PARKER: I think the witness should maybe just  
23 stick to the facts. The characterization is this could be a  
24 mess. I think that's a bad reflection, in terms of  
25 relationship between borrower Kaya and Regions Bank.

*Christina K. Decker, RMR, CRR*

Federal Official Court Reporter

101 Holmes Avenue, NE

Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 MR. ENGLISH: I will ask a different question.

2 THE COURT: Okay.

3 MR. ENGLISH: That will solve it.

4 BY MR. ENGLISH:

5 Q What was your understanding in your words as to the status  
6 of Kaya with Regions Bank that you gained from your  
7 communication with Regions Bank?

8 A I learned a new term from Regions that day. It's called  
9 special assets from Regions Bank. And what he explained to me  
10 was it was about to be in special assets status.

11 Q What did you understand special assets to be?

12 A To be honest, I still don't understand exactly what it  
13 means, but my understanding is it's very -- the scrutiny is  
14 increased greatly, and your ability to operate as a company is  
15 severely impacted.

16 Q Take a look, if you would, at Tab 8, which I have marked  
17 as Exhibit 8 to this proceeding.

18 A Yes.

19 Q Tell me if you would, sir, what that document is.

20 A This is an e-mail from Howard Russell to me, and it's an  
21 ongoing -- it's part of the ongoing dialogue of trying to work  
22 things out over the past eight months or so, six months or so.

23 Q And it looks like these e-mails are from February 13th of  
24 this year?

25 A Yes.

1 Q Take a look at the bottom e-mail that looks like  
2 Mr. Russell sent to you on February 13th at 10:03 a.m.?

3 A Yes.

4 Q Do you see the paragraph that begins with "specifically"?

5 A Yes.

6 Q Mr. Russell wrote, Specifically, as it relates to Kaya,  
7 our initial findings have uncovered significant irregularities  
8 that have caused Kaya in excess of six figures -- and then in  
9 parentheses -- maybe even seven figures in profitability.

10 Do you see that?

11 A Yes, I do.

12 Q Do you have any understanding how these irregularities  
13 could have impacted you?

14 A I think it impacted my payments directly. This by  
15 having -- I mean, he's stating that possibly seven figures  
16 worth of charges are erroneous to Kaya.

17 Q I think he used the term "profitability," doesn't he?

18 A The profitability, yes.

19 Q Were you to be paid out of profit?

20 A Yes.

21 Q Mr. Russell then writes about a final report that would be  
22 available to him tomorrow. Do you see that?

23 A Yes.

24 Q And the next sentence he says, We will share with you on  
25 Monday not only the results of this report, but far more

*Christina K. Decker, RMR, CRR*

Federal Official Court Reporter

101 Holmes Avenue, NE

Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 details as to how your loan will be repaid.

2 Do you see that?

3 A Yes.

4 Q Have you received any sort of report from Mr. Russell?

5 A I have received no report. The only thing I received was  
6 a short e-mail that I believe was supposed to represent the  
7 repayment plan that's also referred in this e-mail, and the --  
8 that really wasn't a plan at all. It just said, well, we're  
9 going to pay you some in February. We're going to pay you some  
10 in May. And we'll pay you the balance in September of this  
11 year, but if we don't -- if we're not able to make that, then  
12 we will pay you more interest.

13 MR. ENGLISH: Your Honor, I should have done this  
14 earlier, but I am going to offer Exhibit 8.

15 THE COURT: No objection?

16 MR. PARKER: No objection.

17 THE COURT: Be admitted.

18 BY MR. ENGLISH:

19 Q All right. Let's talk about the entity itself. Do you  
20 have any concerns as we sit here today that you want to express  
21 to Judge Burke as to Kaya's current operations?

22 A I do.

23 Q All right.

24 A I do. Judge, we, as I stated earlier, we started in 2004  
25 and tried do everything right, you know.

1       We had good customers. We had great employees. We  
2 tried -- we paid our bills on time. We built a nice, very  
3 solid D&B rating. We operated with a defense contract audit  
4 agency, who was critical on allowing you to perform on your  
5 contracts with the government. We -- so our relationship with  
6 DCAA was stellar.

7       Our customer relationships were great. As an operation,  
8 we tried to do everything right. And we gained a very good  
9 reputation, an excellent reputation in the community.

10      With our employees, with our staff, we had a very robust  
11 profit-sharing bonus programs. And we tried -- like I said, we  
12 tried to do everything right.

13      What I am seeing unfolding in front of me is, you know,  
14 aside -- the money aside, I mean, I'm watching the way this  
15 company is just coming apart right now. Financially, it's in  
16 dire straits. It's about to be put into special assets status.

17      We've lost -- I had a controller who had been with me  
18 since, I believe, about 2006. She was outstanding.

19 Outstanding in everything she did. And she was a big part of  
20 why we were --

21      MR. PARKER: Your Honor, I didn't want to interrupt  
22 the witness necessarily, but is there a question here that he's  
23 answering? And --

24      THE COURT: It's open ended. I will let him narrow it  
25 down.

1 MR. PARKER: That would be great. Thank you.

2 THE COURT: I will let him narrow it down.

3 THE WITNESS: Am I being a little too expansive? Is  
4 that the --

5 THE COURT: A little bit, but he is going to fix that.

6 BY MR. ENGLISH:

7 Q I am going to fix it hopefully.

8 A Well, so --

9 Q Let me ask you a question, Mr. Prince.

10 A Yes. Go ahead.

11 Q As it relates to human resources or people, do you have  
12 any concerns as relates to Kaya?

13 A Yes. First my president, my former president has resigned  
14 as of two weeks ago, about two weeks ago. And his resignation  
15 was really the death blow, if my mind, for the prospects of  
16 succeeding -- of success. When I found out Steve had resigned,  
17 I didn't see any chance of the company surviving past that.

18 But even prior to Steve, we also lost one of our guys,  
19 Buck Etheredge (phonetic), who is -- Buck is -- I mean, he's a  
20 senior air traffic control technician and project manager. But  
21 his value is awesome. I mean, he is the face to our customers.

22 He --

23 Q Do you know when Mr. Etheredge left? Etheredge?

24 A When did he leave?

25 Q Yeah.

1 A He was laid off this week. Fully billable. The customers  
2 love him. He is a key part of the operation. But for some  
3 reason he was -- he was laid off.

4 Q All right. Let's talk about what you mean by fully  
5 billable.

6 A Fully billable --

7 Q Judge Burke may not have dealt government contracts like  
8 we have. So tell us what you mean by that.

9 A Fully billable, Judge, means the customers bought and paid  
10 for his support. So he is generating revenues for the company.  
11 He is not charging -- he is not an overhead charge. His time  
12 is billable to the customer, to the contract. So he's  
13 generating revenues.

14 Q And is he an important, in your judgment, an important  
15 part of the relationship between Kaya and certain customers?

16 A Yes.

17 Q Tell us about that. Which customers?

18 A Well, the primary customer is PM -- I will describe the  
19 acronym. PMATC. It's Program Management for Air Traffic  
20 Control for the Army. And Buck -- his name is Brian Etheredge.  
21 I will call him Buck, as everyone does.

22 Buck is involved in just about every facet of PMATC.  
23 Every customer face we have over there is very familiar with  
24 Buck. They think very highly of Buck.

25 He was also -- he was also -- he and I closed the deal for

1 -- he brought the opportunity for providing air traffic  
2 controllers in Iraq for ten years. And so he brought that in.  
3 We worked on that proposal for a period of years, actually.  
4 And it finally was awarded.

5 Kaya's in the second year of a ten-year contract for those  
6 air traffic controllers in Iraq. And Buck was right in the  
7 middle of that, as well.

8 Q Do you have --

9 A So he was a key resource.

10 Q Do you have concerns about Kaya's ability to continue that  
11 ten-year contract without Mr. Etheredge?

12 A It throws it into doubt certainly. Absolutely it does.

13 Q He was laid off within the last week?

14 A I believe it was last Monday that he was laid off.

15 Q Since this lawsuit has been filed?

16 A Yes.

17 Q All right. So the last thing I want to ask you,  
18 Mr. Prince, we are here asking Judge Burke for injunctive  
19 relief. I want you to take a second and tell him -- tell the  
20 Court why you think we should be -- he should issue the  
21 injunction we have asked for.

22 A As I started -- I will try not to be so expansive this  
23 time. But as I started to explain earlier, there's the  
24 financial toll on the company.

25 One of the things that we tried to do with Kaya was always

1 make it financially sound. One of the criteria for winning a  
2 contract is you have to show a level of responsibility,  
3 financial responsibility. You have to show that you're  
4 financially viable.

5 So that, among -- that being one of the major reasons, we  
6 were always financially solid. But that is in jeopardy now.

7 Our relationship with DCAA -- we were actually given a  
8 rare status. I want to say it was called a low-risk status by  
9 the defense contract auditing agency. And what that means is  
10 that we have demonstrated over the years a competence and an  
11 honesty in our accounting systems that DCAA doesn't --  
12 considers us to be low risk. So there's not as much monitoring  
13 by DCAA. We're able to get things turned around very quickly  
14 because of that favored status. But I believe that's going to  
15 be -- that's in jeopardy, as well.

16 We're losing resources -- we're losing human resources.  
17 You know, I have only mentioned a couple of the key personnel  
18 that we have lost. There are others. These are people that  
19 have been with me for years. They're critical to the business.  
20 And they're either being -- they're either leaving because of  
21 the business conditions, or they're being terminated.

22 There's also part of the air traffic control system, or  
23 operation includes a facility, a fabrication facility in  
24 Charleston, in north Charleston. There's this -- there's an  
25 active effort right now to sell off that division. And

1 that's -- it's a key component of the overall air traffic  
2 control business.

3 So for all those reasons, my concern is that I get this  
4 company back, it's going to be -- it's going to be in a  
5 condition that I can't revive it again.

6 Q I think we established earlier the stock is part of the  
7 collateral for the repayment of the loan, correct?

8 A That's correct.

9 Q So one of the remedies you would have in the event of a  
10 default is to take the stock back, correct?

11 A Correct.

12 Q And do you believe that if, without the injunction we have  
13 sought, which, you know, require Kaya to maintain sort of  
14 normal business operations -- do you have any prospect in your  
15 mind of getting repaid?

16 A I do not. I mean, there's none of the terms that we  
17 discussed in August along those lines of only spending money  
18 for ordinary course of business. I mean, none of that has been  
19 honored since that time.

20 MR. ENGLISH: Your Honor, may I have one second to  
21 confer with Mr. McArthur? I think I'm done.

22 THE COURT: Yes.

23 MR. ENGLISH: Your Honor, that's all the questions I  
24 have.

25 THE COURT: Cross?

## 1                   CROSS-EXAMINATION

2 BY MR. PARKER:

3 Q Good morning, Mr. Prince. How are you?

4 A Good morning. I'm good. Thank you.

5 Q That's so appreciated. I don't think as long as I have  
6 been involved in this matter I got to hear that whole story of  
7 how Kaya was developed.8         A couple of questions for you to start. You have  
9 testified there was a transaction in 2017 by which you sold  
10 your interest in Kaya Associates; isn't that correct?

11 A Yes.

12 Q You don't own any interest in Kaya Associates as we speak  
13 here today, and you haven't owned any interest in Kaya since, I  
14 believe, September 2017, right?15         MR. ENGLISH: Your Honor, I am going to object just to  
16 the extent that we're talking about the collateral, which would  
17 be the stock, which he's trying to get back. But with that  
18 clarification.

19                 THE WITNESS: Right. Right.

20                 THE COURT: I understand.

21                 THE WITNESS: That's what I was going to answer, as  
22 well.

23 BY MR. PARKER:

24 Q You have not owned, and Hui Huliau owns Kaya; is that  
25 correct?

1 A That's correct.

2 Q All right. And has owned them since September 2017?

3 A That's correct.

4 Q So I just -- because when you're talking about "we," you  
5 know, I am confused whether you are talking about the companies  
6 that you owned, and you talked about KFS, or whatever, because  
7 Kaya is Hui -- Hui Huliau. And they've owned it since that  
8 time?

9 A That's correct.

10 Q And it's -- and you would agree it's, you know, it's their  
11 duty to run the company, you know, the way they want to, right?

12 A Yes. Within the constraints of our agreement, certainly,  
13 yes.

14 Q And I guess part of this agreement back in 2017 -- and you  
15 walked through it with your counsel -- is that they created,  
16 you know, what we would call in the business sort of a seller  
17 financed agreement. You talked about Tranche A, right?

18 A Yes.

19 Q And you talked about Tranche B, right?

20 A Yes.

21 Q And that defines your relationship, you know, with Hui  
22 Huliau, right? In that the way you described Tranche A is that  
23 I believe your counsel used the numbers -- what is it? Sort of  
24 about a \$3.2 million number, \$3.3 million number constituted  
25 what you would be deserving of getting from Tranche A --

1 A Yes.

2 Q -- if it played itself out?

3 A Yes.

4 Q And I think that the way Tranche A played itself out --  
5 and tell me if I'm wrong -- is that, you know, you would get  
6 these quarterly interest payments, and I think they would be  
7 due on the 15th of every month. And those quarterly interest  
8 payments started after September 2017, and they would continue  
9 throughout the course of those three years, and there would be  
10 some type of balloon payment or so in September 2020. Is that  
11 how it works?

12 A Well, not exactly.

13 Q Okay.

14 A There was also a component that there was 30 percent of  
15 free cash flow should have been paid each quarter, as well.

16 Q Well, I was just talking about the interest payment,  
17 component, okay? I was just talking about that.

18 A Okay.

19 Q All right. And then you are correct. If there was a  
20 30 percent free cash flow, then there would be an additional  
21 payment of principal as part of that over the course, right?

22 A Yes.

23 Q And I think you've testified that to date you have  
24 received all the interest payments since they first began in  
25 2017. I think even the latest interest payment was probably,

1 what, January 2nd?

2 A That's correct.

3 Q You know, 2020?

4 A Yes.

5 Q So interest payments have been paid, right?

6 A Yes.

7 Q Okay. And then this Tranche B was -- you explained it as  
8 being, I guess, related more to incentives or something?

9 A That's correct.

10 Q Right?

11 A That's correct.

12 Q And that amount of what the Tranche B was -- let me see  
13 here. Roughly, what, \$1,314,201 or something?

14 A Yes, that sounds correct.

15 Q So I'm going to check Mr. English's math, because he's --  
16 if you add it up, then your expectations, in terms of the  
17 relationship that you had with Hui Huliau that began in  
18 September 2017, is that you were looking at a potential --  
19 quantifiable potential of \$4,481,701.

20 I didn't go to school for math. I went to school because  
21 allegedly I am good with words. But am I right, that's your  
22 expectation?

23 A That's correct. Yes.

24 MR. PARKER: I am going to apologize to the Court. I  
25 thought the complaint would be marked. But I do have an extra

1 copy. I think you guys probably have a copy of this.

2 MR. MCARTHUR: It's been filed with the Court.

3 MR. PARKER: Can I give the witness this copy?

4 THE COURT: Uh-huh.

5 BY MR. PARKER:

6 Q I've placed in front of you, Mr. Prince, the verified  
7 complaint and request for injunctive relief. You know that was  
8 originally filed in the Circuit Court of Madison County, but  
9 since removed to this fine court here.

10 A Yes.

11 Q Do you remember that being, you know, the complaint you  
12 filed?

13 A Yes.

14 Q Okay. All right. I think I will mark that as -- what  
15 Exhibit Number are we on?

16 I will mark mine Defendant Exhibit 1. I will mark that.  
17 And with no objection?

18 MR. ENGLISH: No objection.

19 MR. PARKER: Okay.

20 BY MR. PARKER:

21 Q I would like to ask you about a couple of -- or the  
22 allegations in this complaint, Mr. Prince.

23 MR. ENGLISH: May I swing around and read on with  
24 Mr. Prince?

25 THE COURT: Yes.

1                   MR. PARKER: I apologize about that. I just thought  
2 it would be marked and we would have it in front of us.

3                   THE COURT: It's not the end of the world.

4 BY MR. PARKER:

5 Q       I think counsel had some questions or directed some  
6 questions to you about what we're seeking here today. This is  
7 an extraordinary relief, you know. Irreparable harm,  
8 injunctive relief. And I think you said you understood that.

9                   Can you take a look at paragraph 17 of your complaint,  
10 Mr. Prince?

11 A       Yes.

12 Q       And I will just read it. I think you're familiar with it.

13                  As part of Hui's acquisition of Kaya, Prince agreed to  
14 restructure the loan to Kaya reflected in the original loan  
15 documents. On September 6th, 2017, Prince and Kaya entered  
16 into an amended and restated loan agreement with Kaya,  
17 restructuring Kaya's debt into two tranches -- Tranche A, worth  
18 \$3,287,500; and Tranche B, in the amount of \$1,314,201. Hui  
19 also executed an amended restated promissory note in the amount  
20 of \$4,481,701.

21                  I think that we've gone over this enough, but, you know,  
22 that's what you allege to be at issue here. This is a, you  
23 know, you filed a complaint and the complaint is associated  
24 with the amended and restated loan agreement. Your contractual  
25 relationship with Hui Huliau is what's at issue, and these are

1 your expectations of damages; is that correct?

2 A I'm not quite sure I understand your question. I think  
3 what you're asking me is, the terms of my sale with Hui Huliau  
4 is reflected here. If that's what you're saying, I'm saying  
5 yes.

6 Q I guess what I'm saying is that when you entered into the  
7 amended and restated loan agreement --

8 A Yes.

9 Q -- and that is -- that is, in essence, your relationship  
10 with Hui Huliau as a result of the transaction in 2017. So the  
11 2017 reaction occurs?

12 A Yes.

13 Q Hui -- Kaya's ownership transfers over to Hui. And the  
14 consideration that you got as it relates to the transition of  
15 that relationship was that you went into the amended and  
16 restated loan agreement, in which in Tranche A you were going  
17 to get the 3.2, 3.3 million amount; and potentially in Tranche  
18 B, you are going to get a 1.3 or so million amount. That's  
19 what you expected to get out of this, right?

20 A Yes.

21 Q Okay.

22 A That was the agreement.

23 Q All right. Thank you.

24 A That was the sales agreement, yes.

25 Q Well, can you take a look at paragraph 63 of your verified

1 complaint and injunctive relief? That's Count Six.

2 A Number 6, did you say?

3 Q Count Number Six, page 13, paragraph 63.

4 A Yes.

5 MR. ENGLISH: This has got some of your markings on  
6 it. Is that okay?

7 MR. PARKER: Let me just check and walk up. Let me  
8 just stretch a little, anyway. That's fine. There you go.

9 BY MR. PARKER:

10 Q Paragraph 63 reads, Prince has no adequate remedy at law  
11 for the defendant's actions since the damages he will suffer  
12 are incapable of exact proof, as is the harm the defendants  
13 will impose upon Prince.

14 This is the injunctive relief. Irreparable harm is what  
15 has to be proven today, in addition to other aspects of the  
16 cause of action to get this sort of extraordinary relief. You  
17 just told me your expectations and what you expected out of the  
18 transaction in 2017 is to be paid in full for Tranche A and in  
19 full for Tranche B if you met the incentives.

20 It seems to me that that's inconsistent. If you're able  
21 to quantify it in one sense, I am not sure how you can say what  
22 is irreparable and why the Court needs to take extraordinary  
23 action at this point in time. If those are your damages,  
24 right? Those are your damages, which you have just said they  
25 are; is that correct?

1 A I don't think I said they were my damages. I think what I  
2 said was that value represents what is in the sales agreement.  
3 I thought that was the question you were asking.

4 Q Well, I think I had restated my question before and I said  
5 we understood that Kaya changed hands in 2017?

6 A Yes.

7 Q So you no longer own Kaya?

8 A That's correct.

9 Q Right? So you no longer really are running Kaya or need  
10 to run Kaya. So whether it's issues of personnel changes,  
11 issues of business decisions, that is the duty now of the  
12 progress of Hui Huliau?

13 A I think I understand now.

14 Q And as a result of the 2017 transaction, you got, in turn,  
15 a seller finance agreement, a contract, the minute restated  
16 loan agreement by which you are going to be paid a sum of  
17 something like 3 million and 387,000, and potentially 1 million  
18 314. And that was your expectation out of this contractual  
19 relationship that you had with Hui?

20 A Right. I think -- I understand you -- I think I  
21 understand what you're getting at now.

22 But as I stated earlier, my -- I had the meeting in August  
23 with Mr. Russell. It became entirely clear that that  
24 repayment -- that payment was not going to happen. Mr. Russell  
25 even admitted to the fact that that would not likely happen.

1       So when -- so as soon as that occurs, then I have to  
2 assume, then, if they're not going to meet the terms of the  
3 deal, I have got to get my company back.

4 Q      Well, I'm going to --

5 A      So that's the irreparable that I described earlier is that  
6 the damage to our reputation, damage to the financial  
7 condition, losing key assets, all of those things.

8 Q      Let me just -- I don't want to be rude or disrespectful.

9 A      Sure. Sure.

10 Q     It's the reputation of Hui Huliau. It's the reputation of  
11 Huliau's management team, not your reputation. Huliau is owned  
12 by Kaya and Associates, okay?

13           MR. ENGLISH: I'm going to object if that's just a  
14 statement.

15           THE COURT: Sustained.

16 BY MR. PARKER:

17 Q      You also told us, Mr. Prince, that all the interest  
18 payments have been made to date, even the last one,  
19 January 2nd, 2020. You also said that the sort of balloon or  
20 Tranche payment of Tranche A is not due until September 2020.  
21 So Hui is adhering to the amended restatement and loan  
22 agreement persistent to its terms. You are getting what you  
23 bargained for.

24 A      But there were also a lot of covenants that are associated  
25 with this deal, as well.

1 MR. ENGLISH: Hold on.

2 THE COURT: Hold on one second. Your lawyer is  
3 objecting.

4 THE WITNESS: Oh, sure.

5 MR. ENGLISH: I am still not sure what the question  
6 is. There was a statement -- I think if he wants Mr. Prince to  
7 respond to that statement, then I don't have an objection.  
8 But, you know, we need to ask questions and answers.

9 THE COURT: Well, I took it as a question. You are  
10 getting -- and I'm reading the question -- you are getting what  
11 you bargained for. I took that as a question, so...

12 MR. ENGLISH: I withdraw my objection.

13 THE COURT: All right.

14 THE WITNESS: Okay. I think I started to answer that  
15 there are terms -- there are terms of this agreement that are  
16 above and beyond just the payment. There were also covenants  
17 agreed to in the sales agreement that prevented certain types  
18 of behavior.

19 Now, when they're making loans to third parties, that's  
20 taking directly away from me.

21 BY MR. PARKER:

22 Q Mr. Prince, do you understand at the end of the day,  
23 whether or not you believe that to be true -- they are taking  
24 loans from third parties or not. But at the end of the day,  
25 you are to be paid in September, you know, potentially this

1       \$4,000,481 amount pursuant to Tranche A and B, notwithstanding  
2 what happens with if you believe people are getting loans from  
3 Hui to others, or Kaya to others. That's what you are going to  
4 get when that date comes, correct? Or you perceive or expect  
5 to get it when that day comes?

6 A       That was the terms of the deal, yes.

7 Q       That's the terms of the deal?

8 A       Right. Right. But when the -- if I can add, I mean, when  
9 the principals --

10 Q       You answered my question.

11 A       When the --

12           THE COURT: Hold on. He will ask you another  
13 question. If there are other things you want to say, I promise  
14 you that Mr. English is going to ask you those things on  
15 redirect.

16           THE WITNESS: Okay.

17 BY MR. PARKER:

18 Q       Also I noticed in the complaint that there were several  
19 allegations regarding providing financial reporting  
20 documentation, okay?

21 A       Yes.

22 Q       I know you and Mr. Russell have had several conversations  
23 since August 15th, I believe, 2017, to the date. And you have  
24 made several requests for financial records.

25       Do you still maintain the position now that you have not

1 been provided the proper financial records?

2 A I have the 2017. I have the 2018 financial reports from  
3 CPA.

4 Q The ones that you wanted. Okay?

5 A And I'm waiting -- I'm sorry. Did I say '17?

6 Q '17 and '18?

7 A Right. And then I'm waiting for 2019.

8 Q Okay. And I think under the agreement terms, when we  
9 provide you with the independent CPA financials, we have, I  
10 think, 120 days after that calendar year. So we need to -- you  
11 know, we're up to date, so to speak, on what we have to provide  
12 you; is that correct?

13 A Now you're up to date. The '17 and '18 were not provided  
14 in a timely fashion.

15 Q But you got those, I believe --

16 A In November.

17 Q -- in November of last year. But you have them now?

18 A I have them now, yes.

19 Q So you have everything that you have requested right now,  
20 in terms of financial documentation? I think that --

21 A There were other things that were promised that have not  
22 been delivered yet.

23 Q But in terms of the agreement and the financial  
24 obligations, we have provided you what we promised we were  
25 going to provide you?

*Christina K. Decker, RMR, CRR*

Federal Official Court Reporter

101 Holmes Avenue, NE

Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A I believe you are correct.

2 Q Okay. Okay. You have had a chance to look at the  
3 financial statements we've provided you, it seems, based on  
4 your testimony; is that correct?

5 A Yes.

6 Q Okay. And I was listening in this exchange, as it relates  
7 to interest payment versus principal, that you were having with  
8 your counsel.

9 A Yes.

10 Q And can you explain to me again your understanding of when  
11 you are entitled to a principal payment in addition to  
12 interest?

13 A 30 percent of -- the terms call for 30 percent of free  
14 cash flow each quarter. So my expectation would have been each  
15 quarterly -- at each quarterly period, the profits would have  
16 been calculated, and 30 percent of the free cash flow should  
17 have been sent to me.

18 Q Okay. I have taken a look at the financial statements  
19 that we've provided you. And can we agree that we do not see  
20 that 30 percent number free cash flow to trigger a principal  
21 payment in looking at the financial statements that we provided  
22 you?

23 A I believe the terms for the 30 percent payment are in the  
24 sales contract, not in the financials, if that's what you are  
25 saying.

1 Q But if we're looking for that equation, in terms of  
2 30 percent of free cash flow, that would be reflected in the  
3 standard financial statement.

4 A Yes.

5 Q So an income statement, balance sheet, which we have  
6 provided?

7 A Yes.

8 Q I have reviewed that and you have reviewed it. Can we  
9 agree that in looking at those CPA certified accounting  
10 statements and financial statements, that that 30 percent free  
11 cash flow does not exist?

12 A We can agree that there are a lot of charges in there that  
13 don't belong there that's causing the 30 percent to not exist.

14 Q I just want you to answer -- does 30 percent free cash  
15 flow exist in the financial statements that you have been  
16 provided pursuant to our reporting obligation under the  
17 agreement?

18 A No.

19 Q Thank you.

20 A No.

21 Q So it wouldn't have triggered the principal payment that  
22 you discussed on direct?

23 A Sir, I guess I'm a little unpracticed at this. But it  
24 seems to me I would want to answer your questions in full, and  
25 you're asking me to just say yes or no, I guess.

1 Q You know --

2 A But I'm trying --

3 Q I understand.

4 A -- to give you the full picture of the situation.

5 Would you restate the question again?

6 Q Well, I think my prior question to that, the question I  
7 just asked you --

8 A Right.

9 Q -- was that you had agreed that in looking at the  
10 certified CPA financial statements that we provided to you  
11 pursuant to our reporting requirements under the agreement,  
12 that free -- 30 percent free cash flow did not exist, and you  
13 said yes?

14 A Correct.

15 Q The follow-up question then was considering that  
16 30 percent free cash flow does not exist, then the trigger to  
17 pay you principal in addition to the interest does not exist,  
18 as well? Just --

19 A I know you want me to give you a yes-no answer.

20 THE COURT: I think it calls for a yes, a no, or an I  
21 don't know.

22 THE WITNESS: Okay. Then, yes, I agree with your --

23 BY MR. PARKER:

24 Q I'm not trying to be tricky. I'm --

25 A I'm not either. I'm trying to answer. I'm trying to give

1 you a full answer, but sometimes I get confused about the  
2 yes-nos in the full answer.

3 THE COURT: Remember, Mr. Prince, Mr. English is going  
4 to make sure that you get to say what you want to say before  
5 this is over. So just answer this man's questions and rely on  
6 your own attorney, all right?

7 THE WITNESS: Yes, sir.

8 BY MR. PARKER:

9 Q You mentioned on direct the Regions Bank relationship,  
10 correct?

11 A Yes.

12 Q And you mentioned their involvement in this transaction  
13 that occurred in September 2017, correct?

14 A Yes.

15 Q The one thing that I didn't hear was I believe that you  
16 had to sign a subordination agreement as it relates to this  
17 transaction in September 2017; is that correct?

18 A That's correct.

19 Q And I believe the parties to that agreement -- and I will  
20 put it in front of you here -- the parties to the agreement  
21 were Kaya Associates, yourself, and Hui Huliau -- Kaya  
22 Associates, yourself, and Regions Bank; right?

23 A That's my understanding, yes.

24 Q And I may not even -- you have seen it before, right? I  
25 think --

1 A Yes.

2 Q -- you have probably seen that.

3 I just had a couple of questions about timing of the  
4 events in your conversations with Regions.

5 When did you first inform Regions that either you alleged  
6 a default took place as it relates to the loan and amended  
7 restated agreement, or that it was alleged due and payable?

8 Can you remember the first time?

9 A It's probably -- I have a longstanding relationship with  
10 Regions Bank, not just with Kaya, but with lots of other  
11 things. And it was probably -- I am going to guess it was  
12 probably around December that I had my first conversation with  
13 Regions about this. And the conversation was about the fact  
14 that I wanted to --

15 THE COURT: Hold on.

16 THE WITNESS: You're right. Sorry.

17 THE COURT: Listen carefully to what this gentleman is  
18 asking you. Make sure you're just answering his questions, all  
19 right?

20 THE WITNESS: Yes, sir. Sorry.

21 BY MR. PARKER:

22 Q So your first conversation with Regions Bank regarding the  
23 alleged default and alleged due and payable status of this --  
24 of the loan -- the subject of the amended and restated loan  
25 agreement was December 2019 --

1 A 2019.

2 Q 2019.

3 A Yes. I believe it was December or January.

4 Q December 2019 or January 2020?

5 A Correct.

6 Q Now, I believe you've marked as an exhibit -- and I'm not  
7 sure which one it is -- but I think it caused for your law firm  
8 Maynard Cooper to send a letter to Hui Huliau -- specifically  
9 Howard Russell -- that was dated August 15th?

10 A Yes.

11 Q It was 2019, right?

12 A Yes.

13 Q And I think in that letter you used the word alleged  
14 default or alleged due and payable as a result of the July  
15 interest payment that was late. I think you testified to that,  
16 as well.

17 A Yes.

18 Q Okay. Was there -- what was the reason for you waiting  
19 until December 2019 or January 2020 to talk to Regions?

20 A My conversation with Regions had nothing to do with  
21 telling them Hui Huliau was in default. My conversation with  
22 Regions essentially was for my own -- my own interest, which  
23 was, hey, we've got this situation. I may get Kaya back. What  
24 do I have to do to resume -- what accounts do we need to set up  
25 for me to resume operations if and when I do?

*Christina K. Decker, RMR, CRR*

Federal Official Court Reporter

101 Holmes Avenue, NE

Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Q I'd like to mark as Defense Exhibit 2 the subordination  
2 agreement that I think you signed --

3 A Yes.

4 Q -- back in 2016. Can you take a look at that?

5 A Yes.

6 Q Can you tell me -- you remember signing that. I think I  
7 asked you that.

8 A Yes.

9 Q Can you give me your understanding of how that  
10 subordination agreement is supposed to work, just -- I want to  
11 understand what you --

12 A Sure. I mean, it's -- in my mind, it's real clear.  
13 Regions gets paid before I do.

14 Q Okay. Can you take a look at page 9 of the agreement?

15 A Yes.

16 Q I believe that subparagraph B above the section 9  
17 paragraph says that the subordinated creditor, which is you on  
18 the agreement, shall promptly notify the bank of the occurrence  
19 of any default under the subordinated debt; is that correct?

20 A Yes.

21 Q And the first notice that you gave to Regions was either  
22 December of 2019 or January 2020?

23 A Correct.

24 Q Okay. Is it also your understanding, Mr. Prince, that if  
25 it wanted to, Regions could intervene in this very action

1 because you have alleged that the loan, which is the subject  
2 matter of the amended loan and restated agreement, is either  
3 default, alleged default or alleged due and payable. Is it  
4 your understanding that Regions has that right to do that?

5 A I'm sorry. I didn't catch what -- they have a right to do  
6 exactly what?

7 Q To intervene and have their voice be heard in this  
8 litigation that you have filed. Do you -- have you talked to  
9 them about that?

10 A About this litigation, no. No. I mean, I've talked --  
11 they understand what's going on. I've been --

12 Q Do they know litigation is going on?

13 A Yes.

14 Q Okay.

15 A Yes. I mean, I think it's clearly -- when I tell them  
16 that I am looking to resume operations with Kaya, I think the  
17 rest of it becomes evident.

18 Q Okay.

19 MR. PARKER: Your Honor, give me maybe a minute to  
20 take a look and consult here.

21 BY MR. PARKER:

22 Q I believe this has already been marked as an exhibit.  
23 It's Plaintiff's Exhibit Number 5, I believe. It is the  
24 continuing guaranty. Do you remember that exhibit, Mr. Prince?

25 A Yes, I do.

1 Q And I guess this is an exhibit in which Hui Huliau  
2 guaranteed payment to John Prince for Tranche A in the amount  
3 of \$3,287,500?

4 A Yes.

5 Q So, in essence, in terms of what you wanted from a damage  
6 standpoint from Tranche A, this would be consistent with what  
7 you testified that you were seeking this amount of money --  
8 \$3,287,500 --

9 A Yes.

10 Q -- damages?

11 MR. PARKER: Right now, no further questions.

12 MR. ENGLISH: May I?

13 THE COURT: (Nodded head.)

14 REDIRECT EXAMINATION

15 BY MR. ENGLISH:

16 Q Mr. Prince, Mr. Parker asked you an awful lot of questions  
17 about your expectations. Let me follow up on expectations.

18 A Yes.

19 Q Did you expect Kaya and Hui to honor the terms of your  
20 deal?

21 A Yes, I did.

22 Q Did you expect that there would be no interparty loans  
23 from Kaya to other Hui organizations?

24 A Yes, I did.

25 Q Did you expect 20 to \$30,000 a month in management fees?

1 A No, I did not.

2 Q Did you expect personal expenses to be paid from Kaya's  
3 accounts?

4 A No, I did not.

5 Q Do you think -- do you expect that if those things hadn't  
6 happened there might have been some profit to pay you on a  
7 quarterly basis?

8 A I think in my mind it's very obvious.

9 Q Mr. Parker was asking you about the guaranty that was  
10 given to you by Hui as part of this transaction.

11 A Yes.

12 Q That's something in addition to the loan agreement,  
13 correct?

14 A Correct.

15 Q There's also a pledge agreement, was there not?

16 A Yes.

17 Q And if you would, turn to the pledge agreement, which is  
18 Exhibit 6.

19 A Yes.

20 Q Take a look on page 3 under exhibit or paragraph Section  
21 7.

22 A Yes.

23 Q Do you see under Events of Default, exhibit or Section A,  
24 there lists a number of remedies you can have in numbered  
25 paragraphs?

1 A Yes.

2 Q Do you see the -- about halfway down it says in the line  
3 that starts with "shall then be disbursed"? Are you there?  
4 See the little number 3?

5 A Yes.

6 Q Right before number 3 it says "and/or" does it not?

7 A Yes, it does.

8 Q Read the next sentence, please, sir.

9 A And/or transfer the collateral to creditor's name, or the  
10 name of its nominee and/or exercise as to the collateral all  
11 the rights, powers, and remedies of an owner thereof.

12 Q All right. And if you look back on Section 2 on page 2,  
13 you'll see what is defined as the collateral. And tell me if  
14 that's the stock of Kaya.

15 A Yes, it is.

16 Q And if you own the stock of Kaya, pursuant to this pledge  
17 agreement, could you make the decisions for Kaya?

18 A Yes.

19 Q Is that what you want to do?

20 A Yes.

21 Q Do you think Kaya would be in a better position to pay off  
22 your loan if you were running it, as opposed to what you have  
23 seen from Hui Huliau?

24 A I believe that is the case.

25 Q And do you believe that the transactions and activities

1 that you have discussed here today, as it relates to those  
2 loans and management fees, are negatively impacting the value  
3 of Kaya?

4 A Yes.

5 Q Do you believe that the loss of human capital and customer  
6 relationships you described earlier are negatively impacting  
7 Kaya's viability as a government contractor?

8 A That's probably the biggest negative impact.

9 Q Do you believe that if those things are allowed to  
10 continue, that Kaya will have any viability if and when you  
11 regain the stock?

12 A No.

13 Q Has Kaya defaulted under the loan agreement?

14 A Yes.

15 Q Has Hui defaulted in your judgment under the pledge  
16 agreement?

17 A Yes.

18 Q Have they -- has Hui made any separate payments to you  
19 since the letter you saw in August of 2015?

20 A No, they have not --

21 Q Do you want the stock back?

22 A -- other than the standard interest payments.

23 Q Do you want the stock back?

24 A Yes, I do. I would like to rebuild what we had.

25 MR. ENGLISH: No further questions, Your Honor.

*Christina K. Decker, RMR, CRR*

Federal Official Court Reporter

101 Holmes Avenue, NE

Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1                   THE COURT: Anything further from the defendant?

2                   RECROSS-EXAMINATION

3 BY MR. PARKER:

4 Q       Mr. Prince, is it your understanding, based on the stock  
5 pledge, you get the money plus Kaya?

6 A       No, that's not my understanding. I mean, my understanding  
7 is I get the -- I get Kaya back, and any impact to its value  
8 would be assessed, as well.

9                   MR. PARKER: No questions.

10                  MR. ENGLISH: Can I clear that question up?

11                  FURTHER REDIRECT EXAMINATION

12 BY MR. ENGLISH:

13 Q       I am going to ask you this question, and I'm going to stop  
14 because I think we have beat this horse.

15                  What is your understanding as to the impact of taking back  
16 the Kaya stock on the debt that's owed to you?

17 A       Well, as it currently stands, there's considerable amount  
18 of debt within Kaya. I believe it's somewhere around 1 and a  
19 half to \$2,000,000 that they're indebted. In addition to that,  
20 there's no operating capital left. So that's the situation as  
21 it is today.

22 Q       So would you intend to give Hui credit against the debt  
23 that's owed to you for the value of Kaya when you take it back  
24 over?

25 A       Yes. I mean, that would -- yes.

1 MR. PARKER: No further questions.

2 THE COURT: Have we got one more witness?

3 MR. ENGLISH: Yes, Your Honor.

4 THE COURT: Here's my view. That 20-minute witness  
5 lasted an hour and a half, so we are going to go eat lunch.

6 MR. ENGLISH: Your Honor, I apologize for being so  
7 off.

8 THE COURT: That's all right. I will see you at 1:00  
9 o'clock.

10 MR. PARKER: Just to let you know that we have two  
11 witnesses, as well.

12 THE COURT: Ah. You didn't mention to that to me at  
13 the beginning of the hearing.

14 MR. PARKER: We weren't sure whether they were going  
15 to be able to make it. We understand that we will be able to  
16 put them up to testify.

17 THE COURT: How long will those witnesses be?

18 MR. PARKER: Probably about the same.

19 THE COURT: Well, now, had I known that, I would have  
20 structured this hearing differently, and I would have -- I  
21 would have been much more miserly about time than I have been,  
22 because y'all are about to take what should have been a  
23 one-hour hearing and make a day of it, and that is not going to  
24 suit me.

25 So we're going to take an hour. And I suggest the two of

*Christina K. Decker, RMR, CRR*

Federal Official Court Reporter

101 Holmes Avenue, NE

Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 you figure out what's important to get up here. And let's make  
2 good use of our time, all right?

3 MR. ENGLISH: Absolutely, Your Honor.

4 THE COURT: Because you are not the only thing I have  
5 to do today.

6 All right. See you after lunch.

7 (Recess.)

8 THE COURT: All right. Who is your next witness?

9 MR. ENGLISH: We are going to call Steve Johnson, Your  
10 Honor, but I think defendant may want to be heard on something.

11 THE COURT: Okay.

12 MR. PARKER: The defendants listened to the message  
13 the Judge gave us before the lunch break. We have a way to  
14 maybe short-circuit this process.

15 THE COURT: Okay.

16 MR. PARKER: We believe if the Judge would be willing  
17 and eager to entertain it, a short legal argument on  
18 plaintiff's failure to meet their burden, in terms of  
19 injunctive relief at this point in the proceedings. We have  
20 witnesses that are well ready to come and testify, but what we  
21 see this becoming -- and we were going to offer proof that  
22 Mr. Johnson is also under a confidentiality agreement.

23 We're going to offer proof that this is not about -- this  
24 hearing -- in our opinion, this hearing is not about whether  
25 John Prince ran his company better than Hui Huliau runs it now.

1 And these witnesses can go back and forth for the next several  
2 hours and talk about who did it better and who managed it  
3 better.

4 I think the hearing is about whether he's met his burden  
5 of irreparable harm, and I don't think he has. And I think if  
6 we could entertain that, we might be able to short-circuit this  
7 proceeding.

8 THE COURT: Hey, I'm open to that, if that's what the  
9 lawyers would like to do.

10 MR. ENGLISH: Your Honor, I think it's sort of a  
11 couple of things. You don't win the game at halftime. I think  
12 we have made substantial progress towards our burden of proof.  
13 And now what they want to do is say you can't call your next  
14 witness because you haven't met your burden of proof. That's  
15 not how it works.

16 The fact that they don't want you to hear from  
17 Mr. Johnson, who was the president of Kaya until a couple of  
18 weeks ago, tells you all that you need to know. Mr. Johnson I  
19 would expect to testify to the way Hui Huliau and its  
20 affiliates have looted this company. They want to make it  
21 about money. But remember there's been a default, both in  
22 terms of payments and in terms of the covenant defaults, as it  
23 relates to the loans of third parties.

24 Mr. Prince is entitled to get the stock back. We saw that  
25 in the pledge agreement. Now. He's entitled to it now. And

1 they haven't given it to him.

2 And so it's not about whether he ran it better or not.

3 It's whether they're running it into the ground, whether this  
4 company is going to survive if the Court doesn't require them  
5 to do -- all we have asked them to do, which is don't do  
6 anything outside the ordinary course.

7 What I expect Mr. Johnson is going to say is the day they  
8 closed the transaction they took a \$200,000 brokerage fee,  
9 which is prohibited by the agreement. Mr. Johnson is going to  
10 testify to the loans, the \$1.7 million in intercompany loans  
11 that are prohibited by the agreement. He is going to testify  
12 to the \$30,000 a month in payments to 4P, which go directly to  
13 the bottom line and prevent Mr. Prince from getting payments.  
14 He is going to testify to the personal credit card expenses  
15 that are run through Kaya for the benefit of these 4P people.  
16 So we are going to paint a picture with Mr. Johnson of the  
17 looting that has gone on.

18 Mr. Johnson is under subpoena. We served him with a  
19 subpoena at lunch. Maybe he has a nondisclosure agreement,  
20 which I think Your Honor could still require him and should  
21 require to him to testify. But I think some of the things  
22 Mr. Johnson's testimony may go to, as it relates to these cost  
23 reimbursable, flexibly priced government contracts, where you  
24 pass through a portion of your cost, some of this goes to the  
25 calculation of these indirect rates, and whether Kaya is

1 operated by Hui may be defrauding the government, or has the  
2 potential for doing that.

3 And at a minimum, you know, for them to stand up and say  
4 there's a nondisclosure agreement, when federal law says  
5 there's no such thing in these circumstances, I think tells  
6 Your Honor all you need to know about the tactic to keep  
7 Mr. Johnson from the witness stand. So we would like an  
8 opportunity to call him.

9 MR. PARKER: May I respond?

10 Under North Jackson, no injury is irreparable only if it  
11 cannot be undone by monetary damages.

12 Very clear on direct testimony, we put a box, in terms of  
13 this is an adequate remedy at law, and what he expected, and  
14 what he would get if Tranche A and Tranche B played its course  
15 September 2020, as prescribed by the amended restated loan  
16 agreement.

17 The only extraordinary relief we have here is we have a  
18 former founder, classic founders dilemma. I can't let go.

19 He's a note holder. Think about it. He's a note holder.  
20 All I heard this morning was we, we, we.

21 Kaya is the property of Hui Huliau. Just because he  
22 doesn't like the way it's being run doesn't allow him to come  
23 in court and get this extraordinary type of relief. He is  
24 perfectly compensatable with what we talked about today on  
25 direct.

1           He can -- and even if Kaya, you know, diminishes in value,  
2 whatever it is, he's got a guaranty, a guaranty from Hui Huliau  
3 to make him whole. That's what's at issue today.

4           You know, I'm sorry that, you know, Mr. Prince, you know,  
5 sold his company. And I'm sorry that maybe that wasn't the  
6 best for his whole enterprises that he thought it was going to  
7 be back in 2017. It was going to develop in 2018. But we're  
8 allowed to run our company the way we want to run it, you know.

9           We applied to the state of Alabama and got a license -- a  
10 corporate license -- and have a social license to be able to  
11 run the company the way we want to. Just because he doesn't  
12 like it, it seems unfair that he can come in.

13           I don't think he has met his *prima facie* burden. So we  
14 can spend the next two hours. And I'm telling you it's going  
15 to be two hours. We are going to spend the next two, three,  
16 four hours going back and forth.

17           They're going to put Steve Johnson up. And then I am  
18 going to call folks. And we are going to go tit for tat on  
19 every alleged business practice that they claim we did wrong or  
20 bad. That's where we are going. So I think it deserves to be  
21 heard.

22           MR. ENGLISH: Can I say something just briefly? This  
23 idea they're entitled to run their company is fundamentally  
24 wrong. They have defaulted. Your Honor has seen the pledge  
25 agreement.

1       One of the cumulative remedies Mr. Prince is entitled to  
2 is to take the stock back and act as if he is the owner.  
3 That's what he wants to do. That's what this case is about.

4       We have not asked Your Honor to order that today, because  
5 all we want to do is have a chance to fully vet the issues in  
6 discovery and come back to Your Honor with a more fully  
7 developed record. He is entitled to own the stock today.

8       It's not -- they want to make it all about money because  
9 they think that's an easy out for them. It's about preserving  
10 that collateral. If they are in default, we're not even trying  
11 to, you know, unseat them. We just want you to put some  
12 constraints on them so they don't sell the Charleston facility  
13 and default on these government contracts. They don't continue  
14 to fire people that are critical for the performance of the  
15 company. So there's some collateral there for Mr. Prince to  
16 default on.

17       This idea he can be paid in September, they ought to pay  
18 him now because they're in default now. But if they're not  
19 going to, then we have to preserve that collateral.

20       THE COURT: That would be what I have not heard. I  
21 have not heard from the defense why he's not in default.

22       MR. PARKER: Well, I think at this stage it's  
23 allegations, right? At this stage, we haven't even answered  
24 the complaint.

25       THE COURT: Sir, I'm asking you to answer the

1 question. You have not addressed the issue of default, so I'm  
2 asking you: Do you deny that Hui Huliau is in default?

3 MR. PARKER: We can provide testimony that would  
4 suggest the exchanges between Howard Russell and John Prince  
5 would give anybody in dealing with Mr. Prince the apparent, you  
6 know, thought pattern that things were fine.

7 The first several discussions that took --

8 THE COURT: So, again, though, so do you say they're  
9 not in default? Or do you say they are?

10 MR. PARKER: We do not believe we are. I don't  
11 believe the plaintiffs have proved that allegation yet.

12 THE COURT: All right. Well, I hear your argument.

13 MR. PARKER: Now, I'd also say --

14 THE COURT: Hold on, sir.

15 MR. PARKER: I'm sorry.

16 THE COURT: So I hear your argument --

17 MR. PARKER: Okay.

18 THE COURT: -- that he has a right to money damages,  
19 and I get that. But he also has a right to protect his  
20 collateral, does he not, if the collateral may evaporate?

21 I would -- I don't understand why he would have no  
22 interest in making sure that that collateral was still there,  
23 that these stock certificates that are pledged would not have  
24 diminishing value.

25 MR. PARKER: First of all, he is already protected in

*Christina K. Decker, RMR, CRR*

Federal Official Court Reporter

101 Holmes Avenue, NE

Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 that. It's not about the collateral. It is about his monetary  
2 damages when it comes around to September 2020. And he's  
3 protected by the guaranty that Hui signed. So the  
4 collateral --

5 THE COURT: He's protected by the guaranty as long as  
6 Hui is viable. But if that's all he needs to be a hundred  
7 percent safe, then why does he need collateralization of the  
8 stock certificates? Tell me what I am missing here.

9 MR. PARKER: I don't think I'm explaining it as best I  
10 can, but he's adequately compensated at law with monetary  
11 damages, okay? And the relief that he is trying to secure is  
12 equitable relief only because he is alleging a default or a due  
13 and payable event.

14 THE COURT: All right. Well, it sounds like we just  
15 need to have this hearing. And so I'd just say you need to  
16 call your next witness. Is there an objection as to calling  
17 this witness?

18 MR. ENGLISH: No, sir.

19 MR. PARKER: Yes, there is. First of all, I would  
20 like to object that he is under an NDA with Kaya and restricted  
21 from providing proprietary information, confidential  
22 information.

23 THE COURT: And is that nondisclosure agreement --  
24 does that have an effect on what U.S. district courts order  
25 people to do?

1           MR. PARKER: Well, now that he has been subpoenaed --  
2 he wasn't subpoenaed earlier this morning. So I think that --  
3 if we could have some type of protections in the record placed  
4 on any information he would testify to.

5           THE COURT: I will say this: You know, this case  
6 looks a lot straightforward to me. I know you probably feel  
7 like I'm beating up on a you little bit right now. But I think  
8 the issues seem to be -- at least the facts can be agreed on,  
9 on some things.

10          I'm not so sure why you couldn't take ten minutes and have  
11 an agreement that would get us on down the line. We can have a  
12 hearing and I can decide it. But, you know, it's like I used  
13 to tell folks in domestic relations court: You are going to be  
14 a lot more satisfied with the agreement that you reach than the  
15 one that I mete out for you.

16          So would it be worth y'all talking? If it's not, that's  
17 okay. That's what I get paid to do. We'll have a hearing.

18          MR. PARKER: Well, I think Mr. English had said a  
19 couple of minutes ago is that all they want to do is think  
20 about operating Kaya in the normal course of business. So  
21 maybe there is some agreement that can be reached. So I think  
22 that is a good use of everybody's time, and certainly an  
23 efficient use of your time.

24          THE COURT: Let's take ten minutes. And I appreciate  
25 it.

1 (Recess.)

2 THE COURT: All right. We got something worked out?  
3 Excellent. Excellent. Who's going to put it on the record?

4 MR. PARKER: If he will read --

5 MR. ENGLISH: I am going to read it, and Mr. Parker  
6 will let the Court know if I blow it.

7 THE COURT: That's fine. And will one of you do a  
8 hard order for me based upon what we put on the record?

9 MR. ENGLISH: Absolutely.

10 THE COURT: Great.

11 MR. ENGLISH: We will be happy to do it and submit it  
12 for your approval.

13 THE COURT: Excellent. Excellent.

14 MR. ENGLISH: We ready?

15 THE COURT: Ready.

16 MR. ENGLISH: Your Honor, to resolve the pending  
17 motion for T.R.O. and preliminary injunction, the parties have  
18 agreed to a -- well, I guess what I think we have agreed to  
19 call a consent injunction. There are several elements, and I  
20 will read them slowly hopefully correctly.

21 And all this generally relates to Kaya. So I am going to  
22 try to work that in here.

23 That Kaya will not -- first element: Kaya will not pay  
24 management or back office charges except to the extent they are  
25 allowable. And then there is a \$10,000 maximum per month on

*Christina K. Decker, RMR, CRR*

Federal Official Court Reporter

101 Holmes Avenue, NE

Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 the management fee.

2 There will be no Kaya intercompany or third-party loans  
3 without John Prince's consent.

4 That as relates to Kaya, there will be no personnel  
5 changes other than for cause without Prince's consent, which  
6 shall not be unreasonably withheld.

7 The defendants would notify Prince in confidence two  
8 business days prior to any personnel changes or actions. If  
9 there is no objection from Prince received within those two  
10 business days, then the action or change can proceed. If  
11 Mr. Prince lodges an objection within two business days, the  
12 parties will work together to try and resolve it. And if they  
13 can't, then they can ask the Court to give us some guidance on  
14 that point. But the action or change would not take effect  
15 until, if there's an objection, the parties either resolve it  
16 amicably or if the Court orders, one way or the other.

17 The defendants will deliver the stock certificate of Kaya  
18 required by the pledged agreement within one week of today.

19 MR. PARKER: Just one note. Could we get two weeks?  
20 Because Wilson Elser, I think, is the law firm that has it.  
21 And we've got to push them to get it --

22 MR. ENGLISH: Make that two weeks.

23 Kaya will not pay the personal expenses of anyone.

24 No profit distributions unless 30 percent of free cash  
25 flow is paid to Prince.

1           No Kaya transactions outside the ordinary course without  
2 Prince's approval, which will not be unreasonably withheld.

3           And then we've also agreed that the terms of this consent  
4 injunction do not affect the parties' rights under the amended  
5 and stated loan agreement and the other related documents.

6           THE COURT: Anything else?

7           MR. PARKER: No. That's it.

8           THE COURT: All right. And who is necessary on your  
9 side to consent to that?

10          MR. PARKER: In terms of counsel, or --

11          THE COURT: The agreement -- yes. In terms of --

12          MR. PARKER: I can consent to it.

13          THE COURT: Just for the record, state who you have  
14 consent on behalf of to enter into that agreement.

15          MR. PARKER: I have consent on behalf of the corporate  
16 defendant Hui Huliau. And I have consent on behalf of both  
17 individual defendants, Deryl Wright and Howard Russell.

18          THE COURT: And I assume your client is sitting here  
19 in the courtroom.

20          MR. ENGLISH: Yes, Your Honor. Mr. Prince is here,  
21 and I have the authority to consent on his behalf.

22          THE COURT: Mr. Prince, you have heard the agreement.  
23 That's also your agreement, as well?

24          MR. PRINCE: Yes, sir, it is.

25          THE COURT: Then the Court will order the parties to

*Christina K. Decker, RMR, CRR*

Federal Official Court Reporter

101 Holmes Avenue, NE

Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 immediately begin abiding by this agreement until such time as  
2 you have a written order for me.

3 Thank you very much. I appreciate your diligent efforts  
4 very much. Safe travels.

5 (Whereupon, the above proceedings were concluded at  
6 3:49 p.m.)

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

*Christina K. Decker, RMR, CRR*  
Federal Official Court Reporter

101 Holmes Avenue, NE  
Huntsville, Alabama 35801  
256-506-0085/ChristinaDecker.rmr.crr@aol.com

## CERTIFICATE

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Christina K. Lecker

05-21-2020

12 || Christina K. Decker, RMR, CRR

Date

13 || Federal Official Court Reporter

14 | ACCR# : 255